

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

TIMOTHY BRYAN BROOKS,

Petitioner,

No. CIV S-03-1860 FCD PAN P

vs.

KATHY PROSPER, et al.,

Respondent.

FINDINGS & RECOMMENDATIONS

Petitioner is a state prisoner seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On December 5, 2005, he filed a document styled, "Motion to order F.B.I. investigation into obvious Retaliatory acts and Federal Charges of Malicious Prosecution Against Petitioner, Request for Federal Court Ordered Transfer to Folsom Ranch Level 1 by December 16, 2005." On December 9, 2005, plaintiff filed a document styled, "Motion (Emergency) for Felony Federal Charges Filed Against C.D.C. and Agents Named Herein." On February 8, 2006, respondent filed a response.

Petitioner alleges he was moved to Administrative Segregation in retaliation for his resort to the federal courts for relief pursuant to 28 U.S.C. § 2254 and 42 U.S.C. § 1983. He asserts that insofar as he has enemies in California Correction Center, he should be transferred to Folsom State Prison as an alternative to Administrative Segregation.

Respondent demonstrates petitioner was moved to Administrative Segregation to protect petitioner from enemies and in the interest of prison security. Petitioner is not entitled to select the location of his confinement. See Meachum v. Fano, 427 U.S. 215, 224 (1976); Olim v. Wakinekona, 461 U.S. 238, 245-49 (1983),

The court finds moving petitioner was not retaliatory. See Rhodes v. Robinson, 408 F.3d 559 (9th Cir. 2005).

Petitioner asserts he has been denied sufficient blankets and that "very cold air is blown into the cells 24 hours a day, 7 days a week." The court cannot adjudicate such a claim on habeas. See Nelson v. Campbell, 541 U.S. 637, 643-46 (2004); see also Preiser v. Rodriguez, 411 U.S. 475, 498-500 (1973).

Accordingly, IT IS HEREBY RECOMMENDED that petitioner's December 5, 2005, motion for an F.B.I. investigation and federal charges of malicious prosecution and December 9, 2005, motion for felony charges be denied.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 20 days after being served with these findings and recommendations, petitioner may file written objections. The document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Petitioner is advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

DATED: April 24, 2006.

  
UNITED STATES MAGISTRATE JUDGE